

In re Appln. of VENKATARAMAN, Balaji  
Application No. 10/056,805

## REMARKS

### *The Present Invention*

The present invention relates to methods for treating upper respiratory indications using tannates. Claims 19-30 are pending.

### *Discussion of Claim Amendments*

Claims 1, 2, 4 and 6-18 have been canceled. New claims 19-30 have been added by this amendment. These new claims are supported by the specification at page 1, lines 9-12, page 3, line 26 to page 4, line 6, page 13, lines 11-13, and pages 14-23 (entire pages). Accordingly, no new matter has been added by way of these amendments.

Applicant has made the aforementioned amendments in order to more particularly point out and distinctly claim the subject matter which they regard as their invention. Applicant believes that the pending claims define subject matter that is patentable over the references of record including, in particular, the references cited in the Office Action.

### *Discussion of the Claim Rejections*

The Office Action rejects claims 1, 2, 4 and 6-18 as allegedly anticipated under 35 U.S.C. § 102(b) by U.S. Patent 3,282,789, U.S. Patent 6,287,597 or 6,306,904. As a threshold matter, claims 1, 2, 4 and 6-18 have been canceled thereby mooted the rejection of these claims.

The patents cited in the Office Action fail to teach or suggest the method of treating upper respiratory indications comprising administering a therapeutically effective amount of dexchlorpheniramine tannate and pseudoephedrine tannate to a human patient in need thereof as recited in independent claim 19. Further, the cited references do not teach or suggest the method of independent claim 20 of treating upper respiratory indications comprising administering a therapeutically effective amount of dexchlorpheniramine tannate, pseudoephedrine tannate and dextromethorphan tannate to a human patient in need thereof.

Similarly, the method of independent claim 25 directed to treating symptoms associated with upper respiratory conditions comprising administering a composition comprising dexchlorpheniramine tannate and pseudoephedrine tannate in an amount effective for the treatment, management or mitigation of such symptoms is neither taught nor suggested by the prior art references cited in the Office Action. Finally, there is no teaching or suggestion of the method of independent claim 26 covering a method of treating symptoms associated with upper respiratory conditions comprising administering a composition comprising dexchlorpheniramine tannate, pseudoephedrine tannate and dextromethorphan

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tannate in an amount effective for the treatment, management or mitigation of such symptoms.

Applicant further notes that the '597 and '904 patents relied upon in the Office Action did not issue more than one year before the effective filing date of the present application of August 31, 2001 (or even the later filing date of this continuation-in-part application on January 25, 2002). Accordingly, the disclosure in these references is not prior art to pending claims 19-30.

*Status of Parent Patent Application*

The parent application to which the present application claims priority, namely U.S. Patent Application 09/952,711, issued as U.S. Patent 6,509,492 on January 21, 2003. The parent '492 patent claims a liquid suspension for treating upper respiratory indications comprising dexchlorpheniramine tannate and pseudoephedrine tannate and, optionally dextromethorphan tannate. See claims 3 and 4. The liquid suspension of claims 3 and 4 is useful in the methods of treatment of currently pending claims 19-30.

*Conclusion*

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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